

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Johan R. de Faire :
Application No.: 09/549,642 : Confirmation No.: 9183
Filed: April 14, 2000 :
For: REMOVING DENTAL PLAQUE WITH :
KRILL ENZYMES :

**PETITION PURSUANT TO 37 C.F.R. §1.182 FOR ENTRY OF AN
AMENDMENT IN AN ABANDONED APPLICATION IN ORDER TO
PERFECT CLAIMS TO BENEFIT UNDER 35 U.S.C. §§120 and 365(c)**

Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. §1.182, applicant hereby petitions for entry of the enclosed amendment in the above-identified abandoned patent application for the purpose of correcting claims for the benefit of earlier-filed applications under 35 U.S.C. §§120 and 365(c). Favorable consideration, grant of the petition and entry of the enclosed amendment is requested.

The Director has been authorized concurrently herewith to charge the fee of \$130.00 for this petition to Deposit Account No. 50-0462. No other fees are believed to be due in connection with this petition. However, if any additional fee is due, the Director is authorized to charge Deposit Account No. 50-0462.

A. Facts and Evidence in Support of the Petition

1. Amendment of Abandoned Applications is Permitted

Amendment of abandoned patent applications is permitted to insert a specific reference to an earlier-filed, co-pending application for the purpose of correcting the claim for the benefit of one or more earlier-filed applications under 35 U.S.C. §120. See *Sampson v. Commissioner of Patents and Trademarks*, 195 U.S.P.Q. 136 (D.C.D.C. 1976). In that case, the applicant was permitted to insert a specific reference to an earlier-filed, co-pending application in several abandoned applications in order to correct the claim for benefit of one or more earlier-filed applications under 35 U.S.C. §120. This was done for the purpose of perfecting a claim for benefit of one or more earlier-filed applications under 35 U.S.C. §120 in an issued patent, which relied on those abandoned applications to establish the chain of co-pendency required for a valid claim for benefit under 35 U.S.C. §120.

2. Entry of the Amendment is Required to Perfect the Claims for Benefit

In the present case, the applicant inadvertently failed to include in the first sentence of the specification, a specific reference to two (2) earlier-filed, co-pending applications as was required by 37 C.F.R. §1.78 (a) in effect at the time of this application, in order to perfect a claim for benefit under 35 U.S.C. §120 and 35 U.S.C. §365(c). The two, earlier-filed, co-pending applications for which benefit is claimed are U.S. patent application no. 08/338,501, filed on November 22, 1994, now abandoned, and International application no. PCT/SE93/00455, filed on May 21, 1993, designating the United States.

The specific reference to the earlier-filed applications was inadvertently not included in the first sentence of the above-identified application.

In order to perfect the claims for benefit under 35 U.S.C. §§120 and 365(c) in the subsequently filed pending U.S. patent application numbers 10/750,184, filed on December 31, 2003, and 10/880,595, filed on April 6, 2005, it is necessary for the applicant to also perfect the claim for benefit in the abandoned application which is the subject of this petition, since this abandoned application is an intermediate application between the two currently pending U.S. patent applications and the two, earlier-filed co-pending applications of which the benefit is sought. Accordingly, applicant seeks entry of the enclosed amendment to the specification in

order to insert specific references in the first sentence of the specification pursuant to 37 C.F.R. §1.78(a), in effect at the time that abandoned application that is the subject of this petition was filed, in order to perfect the claims to the benefit of the three, earlier-filed co-pending applications mentioned above.

3. The Omission of the Specific Reference to Earlier Applications was Inadvertent

The omission of a specific reference to the earlier applications in the first sentence of the specifications of the above-identified abandoned applications, pending applications and issued patents, was inadvertent. The applicant discovered this inadvertent error for the first time in December 2006.

4. The Requested Correction is Primarily Clerical in Nature

The Declaration of the abandoned application which is the subject of this petition included a reference to each of the three earlier-filed, co-pending applications for which benefit is sought on page 2. These references to the earlier-filed, co-pending applications do not meet all the requirements of 37 C.F.R. §1.78(a) in effect at the time that the abandoned application, which is the subject of this petition, was filed, since the references were not located in the first sentence of the specification. Thus, the requested correction is primarily clerical in nature since the subject application already included a reference to the earlier-filed applications but this reference did not meet all of the clerical requirements of 37 C.F.R. §1.78(a).

5. All Other Requirements for a Valid Claim to Benefit Are Met

The present application otherwise meets the requirements for obtaining the benefit of the filing dates of the earlier-filed applications because U.S. patent application no. 08/338,501, filed on November 22, 1994, was co-pending with the great-great grandparent application no 08/385,540, filed on February 8, 1995, for the present application, for which benefit has also been claimed via the co-pending parent, grandparent and great-grandparent applications, and , the present application has the same inventor as the three earlier-filed applications, and International application no. PCT/SE93/00455, filed on May 21, 1993, designating the United States was copending with U.S. patent application no. 08/338,501, filed on November 22, 1994; and the

present application contains disclosure in common with the earlier-filed applications.

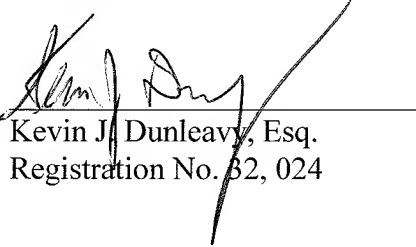
Accordingly, entry of the attached Amendment adding specific references to the earlier-filed applications is requested in order to receive the benefit of the earlier filing dates.

C. Relief Sought

Favorable consideration, granting of this petition and entry of the enclosed Amendment in the above-identified abandoned U.S. patent application is requested.

Respectfully submitted,

By:


Kevin J. Dunleavy, Esq.
Registration No. 32,024

Date: January 12, 2007

Customer No. 21,302
KNOBLE YOSHIDA & DUNLEAVY, LLC
Eight Penn Center, Suite 1350
1628 John F. Kennedy Boulevard
Philadelphia, PA 19103
Tel: 215-599-0600
Fax: 215-599-0601
e-mail: kjdunleavy@patentwise.com